

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

10 ALVIN HENNINGTON, JR. } Civil No.08cv0859 JAH (LSP)  
11 Plaintiff, }  
12 v. }  
13 SAN DIEGO POLICE DEPARTMENT, }  
14 et. al., }  
Defendants. }

16 Plaintiff filed a document *nunc pro tunc* to August 21, requesting entry of default  
17 judgment. The motion lacks any argument in support of his request. Additionally,  
18 Plaintiff is improperly seeking entry of default judgment prior to obtaining entry of  
19 default. Moreover, entry of default is not warranted. Default is entered when a party fails  
20 to respond to a complaint. See FED.R.CIV. 55. Defendant has responded to the complaint  
21 by filing a motion to dismiss. See Doc. No. 7. As such, Plaintiff's motion for default  
22 judgment is premature and improper.<sup>1</sup>

23 //

24 //

25 //

26 //

27

<sup>28</sup> <sup>1</sup>Any further failure to comply with the Federal Rules of Civil Procedure or orders of this Court may result in sanctions including dismissal of the case. See CivLR 83.1.

1       Based on the foregoing, IT IS HEREBY ORDERED Plaintiff's motion for default  
2 judgment is **DENIED**.

3 DATED: August 26, 2008

4 

5 JOHN A. HOUSTON  
6 United States District Judge

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28